IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FOURTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 39 of 1999

Between:

Vemulachedu Gram Panchayat,

Saidapuram Mandal, Nellore District,

Represented by its Sarpanch Sri Y.Ratnaiah

Son of Nadipi Narsa Raju, Vemulachedu,

Saidapuram Mandal, Nellore District

..... PETITIONER

AND

1 The District Collector (Panchayats) Nellore,
Nellore District
2 The Revenue Divisional Officer
Gudur, Nellore Dist
3 The Mandal Revenue Officer
Saidapuram Mandal, Nellore District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus declaring that Ac.369-96 cents of grazing poramboke in Survey No.1 of Vemulachedu Village, Saidapuram Mandal, Nellore District, is vested in petitioner gram panchayat under section 58 of A.P. Panchayat Raj Act 1994 and the action of the respondent in seeking to dispossess the petitioner gram panchayat from the said land without issuing the notification under section 58 (2) of the Act is illegal, arbitrary, and without jurisdiction and contrary to the provisions of AP. Panchayat Raj Act 1994, consequently directing the respondents not to induct any third parties in possession of the said land and also declare that if any proceedings are issued by the respondents in respect of the said land as illegal.

Counsel for the Petitioner:MR.P.SRIDHAR REDDY

Counsel for the Respondents: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court made the following:

ORDER:

The Vemulachedu Gram Panchayat, Saidapuram Mandal of Nellore District, seeks a Writ of Mandamus declaring that an extent of Acs.369.96 in S.No.1 Vemulachedu Village, which is a grazing poramboke, vests in the Gram Panchayat and that the action of the respondents in seeking to dispossess the Gram Panchayat from the land without proper notification under Section 58(2) of the A.P.Panchayat Raj Act, 1994 is illegal and contrary to law. The petitioner also seeks a consequential direction to respondents not to induct third parties into possession of the said land.

When the matter was listed before this Court on 3.8.2004 it was brought to my notice that a Writ Petition with similar relief being W.P.No.295 of 1994 is pending before this Court. Therefore, the matter was adjourned directing the office to put up this writ petition along with W.P.No.295 of 1994. Today, it is brought to the notice that the other Writ Petition has already been disposed of by this Court by order dt.20.2.2002.

The other Writ Petition was filed by residents of Vemulachedu Village with almost similar relief and for direction to respondents not to alienate or induct any third parties in possession of the land admeasuring Acs.369.96 in S.No.1 of Vemulachedu Village. When the matter was pending, as many as seventy three persons of the same Village, who are allegedly granted Eksal leases came on record. This Court after hearing all the parties, disposed of the matter giving liberty to petitioners therein to make a representation to the Collector, who was directed to dispose of the same. The operative portion of the order reads as under:

As can be seen from the stand taken in the counter affidavit filed by the respondent Nos.1 to 3, it appears the procedure contemplated under Section 58(2) of the Act and also the relevant Board Standing Orders had not been followed. Be that as it may, it is stated by the writ petitioners that a representation was made, but at present, the same is not traceable in the records. May be that in pursuance of the Eksal leases, the beneficiaries, respondent Nos.4 to 76 and certain others may be in possession of small extent of lands.

In a peculiar facts and circumstances of the case and especially in the light of the stand taken by the official respondents 1 to 3 in the counter affidavit, the petitioners and the residents of Vemulachedu Village are given liberty to make a representation narrating all the

details to respondent No.1 in this regard, within a period of one month from the date of communication of this order to respondent No.1, and respondent No.1 shall dispose of the same in accordance with law within a period of three months thereafter. Except this relief, no other relief can be granted in favour of the writ petitioners at this juncture.

Following judgment of this Court, this Writ Petition is disposed of giving liberty to Vemulachedu Gram Panchayat to approach the District Collector by way of representation which shall be disposed of in accordance with law.

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(V.V.S.RAO, J)

4.8.2004

bnr

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The District Collector (Panchayats) Nellore,
Nellore District
2 The Revenue Divisional Officer
Gudur, Nellore Dist
3 The Mandal Revenue Officer
Saidapuram Mandal, Nellore District

4 2 CCs to G.P. for Panchayat Raj & Rural Development,

High Court Buildings, Hyderabad (OUT)

5 2 CD copies